

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

FOR MARCH 15, 2006

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **March 15, 2006** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb

ROLL CALL

9 present, 3 absent. Commissioners Walker, Bury and Fay were excused.

PRAYER

Commissioner Coleman led the Commissioners in prayer.

ITEMS NOT ADDRESSED ON THE AGENDA

None

PUBLIC COMMENT ON ANY PUBLIC MATTER

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb passed out a letter to the commissioners that announced that Butte-Silver Bow is off the probationary status with the State Preservation Office. He also noted that the boys and girls AA State Tournament was a huge success for our community. A hospitality room for the coaches was a new addition. Marko Lucich and his crew put on some fantastic dinners for those folks. There is really only two communities that can hold that class AA tournament – Butte and Billings. Missoula and Bozeman have their NCAA tournaments that are happening at the same time. We're hoping to see that tournament here every other year.

Janet Cornish is having interviews with Department Heads for the strategic plan we have for our local government and we should have that in the next few weeks for your review.

He has met with the Addiction Awareness Advisory Council last Thursday. We have 26 Board members serving on that Council.

This week we have been very busy meeting with Arco. We are still in negotiations with them.

SECTION I PUBLIC HEARING

FOR THE PURPOSE OF HEARING PROPOSALS SUBMITTED FOR THE SEARS BUILDING, 40 E BROADWAY (Communication No. 06-107 being held in Committee of the Whole.) Proof of publication

Dori Skrukrud, Assistant Community Development Director, told the Commissioner that four proposals have been received for the Sears Building at 40 E. Granite Street.

Chief Executive Babb then opened the public hearing at 7:35 PM and the first proposer came to the microphone.

Nicholas Kujawa of Brooklyn, New York

Plans are to build a science center on the first floor and apartments on the upper floors.

Edward Killgore, Butte and Rialto, CA, Silver Bow Investment, inc.

Plans to build upscale lofts on upper floors and also office space and retail space

Randy Swan, Denver, Colorado, The Cygnet Group

Plans for a gourmet grocery store, lofts for sale, offices and other rental space.

Jennifer Rozinka, Butte, Montana

Plans to build mini-stores, restaurant, Wine Bar, Cold Stone Creamery

Chief Executive Babb then called for proponents.

Mary Lou Jones spoken in support of proposal given by Ed Killgore

Mike Burns also spoke in support of Ed Killgore.

There being no other proponents, Chief Executive Babb called for opponents. On the third and final call there being none he called the public hearing closed at 8:58 PM.

Chief Executive Babb thanked all of the proposers. **Commissioner O'Leary moved that the four proposals be referred back to the Land Sales Committee for their further examination and report back to this council. The motion was seconded by Commissioner Sheehy.** On the question, Commissioner O'Leary said that ordinarily on this type of proposal it is usually just the

commissioner from the district where the property is involved that sits in on the decision. Since this particular project is so big and so important to this community, he wonders if other commissioners can attend that examination meeting. Chief Executive Babb said he didn't have a problem and if Mr. O'Leary would like to attend please let Ms. Byrnes know. Dori Skrukud stated they have scheduled the meeting for the review committee. It is Monday, the 27th, 2PM in the First Floor Conference Room. She has provided the evaluation sheets to the Review Committee. They have expanded the Review Committee to include our typical representatives from the Community Development, Planning Office, Health Department, Land Sales Office, the County Attorney's office, the office of Economic Development and the Public Works Department. We have also expanded staff reviewing it because it is a significant project. We would welcome any commissioner at that meeting. **The motion carried with a unanimous verbal vote.**

SECTION II PUBLIC HEARING

FOR THE PURPOSE OF RECEIVING COMMENT ON THE NEWLY ESTABLISHED EAST BUTTE RENOVATION AND REHABILITATION AGENCY INTERGOVERNMENTAL LOAN FROM THE URBAN REVITALIZATION AGENCY AND TO AMEND THE 2005-2006 BUDGET TO CREATE BUDGET AUTHORITY FOR THIS AGENCY. (Communication No. 06-126) Proof of publication was noted and placed on file.

Karen Byrnes gave the staff report and said the purpose of this public hearing was to set up budget authority to start activities on that new district. The loan has been approved by the URA Board.

Commissioner Sheehy asked how will this loan be paid back. Ms. Byrnes replied that a pay-back period of nine years has been established and it will be paid back on tax increment dollars that are generated within the new district. They have set a minimum payment schedule and it starts at \$20,000 the first year and escalates each year. She estimates they will be able to pay it off much sooner.

Chief Executive opened the public hearing at 9:02 PM and called for proponents. On the third and final call, there being none he called for opponents. Again there was not response so he called the public hearing closed at 9:03PM

SECTION III PRESENTATION COMMUNICATION NO. 06-158

LeRoy Cottom, Butte-Silver Bow Historic Preservation Commission, requesting time on the agenda to make a presentation in regards to "Probationary Status" of Local Preservation Program.

Dan Dennehy, Health Department Director, said this was a team effort and the ordinance that you will see before you in the next several weeks will do a number of things. We just received the State Historical Preservation comments on the ordinance. It's quite a large document. It's going to be very thorough. We set goal for January of this year. It's a large document and the state had to review it. We gave the state until the 15th of March to get us off probation. We still have a lot to do. We try to encompass a number of things through our debates.

Commissioner O’Leary asked for a five-minute recess at 9:00 PM. At 9:15 PM Chief Executive called the council back in session. A roll call of 9 present and 3 absent was taken.

A.

1. COMMITTEE OF THE WHOLE MEETING REPORT
2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
3. JUDICIARY COMMITTEE MEETING REPORT
4. PUBLIC WORKS COMMITTEE MEETING REPORT

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It was then moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a unanimous verbal vote to approve the Consent Agenda, Section IV-A, Items 1 through 4 and Section IV, Items 1 through 40 with the three exclusions.

Communication No. 06-126

It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a unanimous verbal vote to change the recommendation to concur and send the communication to the County Attorney for a resolution and place on file.

Communication No. 06-130

Commissioner O’Leary said his recommendation will remain the same. He wanted some discussion on this. Pat Callaghan and Mike Rallis have since called everyone they had on their list. There has been about 20 who have gotten in and taken care of their business license. The ordinance does say the government does have the ability to double the fee. Pat Callaghan does not know if he has the ability to do this or does the municipal court judge do that. That’s an item we need to have clarified. Mollie Maffei says he does not have the authority right now but he can be given the authority if we amend our municipal code to allow him to write a ticket. It can get served and then dealt with in municipal court. There also is the option to turn it over to the County Attorney’s office to file a complaint. **Commissioner O’Leary then made the motion to refer this communication to Committee of the Whole. The motion was seconded by Commissioner Sheehy and carried with a unanimous verbal vote.**

Communication No. 06-137

Commissioner O’Leary the original recommendation was to hold this in Committee of the Whole but because of the time-sensitive date on this Helen contacted Robin Busch and encouraged her to get all the paperwork done by tonight’s meeting which has been done. This has gone completely through the process, so the motion now would be to concur with the request in Communication No. 06-137 and place on file. The motion was seconded by Commissioner Sheehy and carried with a unanimous verbal vote.

SECTION V COMMUNICATIONS TO BE READ AND ACTED UPON

1. 06-135 Skip Evans, regarding on-going parking problem at Tripp and Dragstedt Apartments.

Skip Evans, 634 Main Street, came to the microphone to voice his complaint about the parking problem at the Tripp and Dragstedt Apartments. He is the

owner of an internet software company. He employs two computer science majors, seniors from Tech. His business comes exclusively from New York City and the San Francisco Bay Area. One of the reasons he chose the Tripp and Dragstedt is the off-street parking. There is a real problem there. Probably 30% of the cars in there are people who park in our parking lot and then walk into the high school for business. He asked what could be done. Can he call a patrol car to ticket the cars? Can we call tow trucks and have them towed.

Chief Executive Babb suggested it would be more appropriate to call the parking department and they would dispatch somebody out to take a look at this. He said he would visit with Mr. Sullivan to see what tickets have been issued in that area in the last year. He said he would make sure Mr. Evans gets the proper information. Commissioner O'Leary said that Butte High is trying to rectify this by putting together some other parking lots. Hopefully this will ease some of these problems.

It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried with a unanimous verbal vote to place Communication No. 06-135 on file.

2. 06-159 Ralph Boerner, requesting Council consider an exception to Butte-Silver Bow policy on sick leave for Jill Lawrence.

Commissioner O'Leary said he has talked with Tim Clark and Dan Dennehy and they think it would be better to send this to Personnel Committee, **Commissioner O'Leary moved to send Communication No. 06-159 to the Personnel Committee. Commissioner Sheehy seconded the motion and it carried with a unanimous verbal vote.**

SECTION VI

ORDINANCES AND RESOLUTIONS\ REFERRED TO JUDICIARY

1. COUNCIL BILL NO. 06-2 ORDINANCE NO. 06-2

AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 204 AND SECTION 10.40.050 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "SPEED LIMIT;" ESTABLISHING A 35 MPH SPEED LIMIT ON HANSEN ROAD BEGINNING AT ITS INTERSECTION WITH BEEF TRAIL ROAD AND MONTANA STREET ON THE NORTH AND CONTINUING SOUTH TO A POINT 0-702 MILES ON THE SOUTH;

ESTABLISHING A 25 MPH SPEED LIMIT ON HANSEN ROAD FROM A POINT 0.971 MILES SOUTH OF ITS INTERSECTION WITH BEEF TRAIL ROAD AND MONTANA STREET ON THE NORTH TO HOLMES AVENUE ON THE SOUTH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**2. COUNCIL BILL NO. 06-3
ORDINANCE NO. 06-3**

AN ORDINANCE AMENDING SUBSECTION 9.01 IF SECTION 4 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND SECTION 10.32.010 (c) OF THE BUTTE-SILVER BOW MUNICIPAL CODE (BSB MC) ENTITLED “STOP SIGNS”; PROVIDING THAT ALL TRAFFIC PROCEEDING ALONG COYOTE LAND SHALL STOP BEFORE ENTERING THE INTERSECTION OF COYOTE LAND AND LITTLE BASIN ROAD AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**3. COUNCIL BILL NO. 06-4
ORDINANCE NO. 06-4**

AN ORDINANCE AMENDING SECTION 4 OF SUBSECTION 16.02 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND SUBSECTIONS (A), (B), (C), (D), (E) AND (F) OF SECTION 10.52.025 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); B-SB MC; ADDING A NEW SUBSECTION TO BE NUMBERED 10.52.025(G),B-SB MC; PROHIBITING PARKING ON PORTIONS OF COLORADO, DAKOTA, GRANITE, MERCURY, MONTANA, SILVER AND WYOMING STREETS BETWEEN THE HOURS OF 6:00 A.M. AND 1:00 P.M. ON MARCH 17TH OF EACH YEAR AND DELETING THE PROHIBITION AGAINST PARKING ON PORTIONS OF BROADWAY, IDAHO AND PARK STREETS DURING SUCH HOURS; AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**4. COUNCIL BILL NO. 06-5
ORDINANCE NO. 06-5**

AN ORDINANCE AMENDING CHAPTER 10.52 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “PARKING”; PROVIDING FOR CONSTRUCTION PARKING ZONES; AUTHORIZING THE PARKING COMMISSION TO DESIGNATE CONSTRUCTION PARKING ZONES, LIMITS FOR CONSTRUCTION PARKING ZONES AND AUTHORIZING EXTENSIONS OF SUCH TIME LIMITS; ADDING NEW SECTIONS TO BE NUMBERED 10.52.701, 10.52.703, 10.52.705, 10.52.707, AND 10.52.709M B-SB MC; AMENDING SECTION 10.52.720M B-SB MC AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

5. COUNCIL RESOLUTION NO. 06-19

SECTION VII

**ORDINANCES AND RESOLUTIONS –
FINAL READING**

SECTION VIII

ORDINANCES AND RESOLUTIONS - SUSPENSION OF THE RULES

It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to suspend the rules for the purpose of passing Council Resolution Nos. 06-18, 06-20, 06-21, 06-22 and Council Bill No. 06-1, Ordinance No. 06-1 by waiving subsection 7 of Rule XXXVI of the Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee.

1. COUNCIL RESOLUTION NO. 06-18

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF SEVERAL PARCELS OF PROPERTY IN THE AREA COMMONLY REFERRED TO AS BIG BUTTE FROM SEVERAL LANDOWNERS, ALL TO BE ACQUIRED WITH A GRANT FROM THE MONTANA DEPARTMENT OF JUSTICE AS PART OF THE NATURAL RESOURCES DAMAGES PROGRAM (NRDP) AND AUTHORIZING THE RECORDING OF APPROPRIATE DEEDS TO EXECUTE THE LAND TRANSFERS ALL AS DESCRIBED HEREIN AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Resolution No. 06-18 on final reading and passed having been deemed fully read at length.

2. COUNCIL RESOLUTION NO. 06-20

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY PARTICULARLY DESCRIBED AS LOTS 51 – 61 OF THE LIZZIE LODGE, AN UNFILED PLAT, MINERAL SURVEY NO. 795, LOCATED IN SECTION 13, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M., BUTTE-SILVER BOW COUNTY, MONTANA FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Resolution No. 06-20 on final reading and passed having been deemed fully read at length.

3. COUNCIL RESOLUTION NO. 06-21

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A PARCEL OF PROPERTY AT 2802 SOUTH MONTANA AVENUE FROM ROBERT J. AND ALBERTA K. ISAACSON, AS JOINT TENANTS, TO BE ACQUIRED A

PUBLIC RIGHT-OF-WAY WITH FUNDS FROM THE MONTANA DEPARTMENT OF TRANSPORTATION AS PART OF A MONTANA AIR AND CONGESTION **INITIATIVE** (MACI) PROJECT FOR THE DEVELOPMENT AND CONSTRUCTION OF THE DEWEY EXTENSION AND AUTHORIZING THE RECORDING OF THE APPROPRIATE DEED TO EXECUTE THE LAND TRANSFER AS DESCRIBED HEREIN AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Resolution No. 06-21 on final reading and passed having been deemed fully read at length.**

4. COUNCIL RESOLUTION NO. 06-22

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY KNOWN AS 1904 OREGON AVENUE AND MORE PARTICULARLY DESCRIBED AS LOTS 32 AND 33 IN BLOCK 5 OF THE GRAND AVENUE ADDITION FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Resolution No. 06-22 on final reading and passed having been deemed fully read at length.**

**5. COUNCIL BILL NO. 06-1
ORDINANCE NO. 06-1**

AN ORDINANCE AMENDING SECTION 4 OF SUBSECTION 16.02 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND SUBSECTIONS (A), (B), (C), (D), (E) AND (F) OF SECTION 10.52.025 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); B-SB MC; ADDING A NEW SUBSECTION TO BE NUMBERED 10.52.025(G), B-SB MC; PROHIBITING PARKING ON PORTIONS OF COLORADO, DAKOTA, GRANITE, MERCURY, MONTANA, SILVER AND WYOMING STREETS BETWEEN THE HOURS OF 6:00 A.M. AND 1:00 P.M. ON MARCH 17TH OF EACH YEAR AND DELETING THE PROHIBITION AGAINST PARKING ON PORTIONS OF BROADWAY, IDAHO AND PARK STREETS DURING SUCH HOURS; DECLARING THAT AN EMERGENCY EXISTS IN FINDING THE NECESSARY FACTS FOR SUCH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Bill No. 06-1, Ordinance No. 06-1 on final reading and passed having been deemed fully read at length.**

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O’Leary, seconded by Commissioner Sheehy to Rise to the Call of the Chair.

The meeting adjourned at 9:55 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER

